

the full-size map are clearly depicted and labeled.

[59 FR 59507, Nov. 17, 1994, as amended at 59 FR 59954, Nov. 21, 1994]

§ 22.949 Unserved area licensing process.

This section sets forth the process for licensing unserved areas in cellular markets on channel blocks for which the five year build-out period has expired. This process has two phases: Phase I and Phase II.

(a) *Phase I.* Phase I is a one-time process that provides an opportunity for eligible parties to file competing applications for authority to operate a new cellular system in or to expand an existing cellular system into unserved areas (Phase I initial applications) as soon as these areas become available. In addition, each licensee whose Phase I initial application is granted is afforded one opportunity during the Phase I process to file an application proposing major modifications to the cellular system authorized by that grant (a Phase I major modification application), without being subject to competing applications.

(1) Phase I initial applications must be filed on the 31st day after the expiration of the five year build-out period of the authorized system(s) on the channel block requested in the market containing the unserved area.

(i) Each Phase I application must request authorization for one and only one cellular geographic service area (CGSA) in one and only one cellular market.

(ii) Applicants must not file more than one Phase I initial application for any cellular market.

(iii) Phase I initial applications must not propose any *de minimis* or contract service area boundary (SAB) extensions.

(2) Only one Phase I initial application is granted on each channel block in each market. Consequently, whenever two or more acceptable Phase I initial applications are timely filed in the same market on the same channel block, such Phase I initial applications are mutually exclusive, regardless of any other considerations such as the technical proposals. In order to determine which of such mutually exclusive

Phase I initial applications to grant, the Commission administers competitive bidding procedures in accordance with subpart Q of part 1 of this chapter. After such procedures, the application of the winning bidder may be granted and the applications excluded by that grant may be dismissed without prejudice.

NOTE: Notwithstanding the provisions of § 22.949(a)(2), mutually exclusive Phase I initial applications that were filed between March 10, 1993 and July 25, 1993, inclusive, are to be included in a random selection process, following which the selected application may be granted and the applications excluded by that grant may be dismissed without prejudice.

(3) Phase I major modification applications (applications filed during Phase I that propose major modifications to cellular systems authorized by the grant of Phase I initial applications) must be filed no later than 90 days after the grant of the Phase I initial application. Each Phase I licensee may file only one Phase I major modification application. The FCC will not accept any competing applications in response to a Phase I major modification application. Phase I licensees may not sell to a third party any rights to apply for unserved area.

(i) Phase I major modification applications may propose *de minimis* or contract SAB extensions; provided that a contract SAB extension into an adjacent market may be proposed only if, at the time the Phase I major modification application is filed, the licensee in the adjacent market (on the requested channel block) has the right to enter into such a contract (see § 22.912(c)).

(ii) Phase I major modification application may propose a CGSA that is not contiguous with the authorized or proposed CGSA, provided that the non-contiguous CGSA meets the minimum coverage requirement of § 22.951.

(4) Phase I licensees may also file applications for or notifications of minor modifications to its system. However, such minor modifications may not reduce the size of the CGSA below the minimum coverage requirement of § 22.951.

(b) *Phase II.* Phase II is an on-going filing process that allows eligible parties to apply for any unserved areas that may remain in a market after the Phase I process is complete.

(1) If a Phase I initial application is granted for a market and channel block, Phase II applications (applications for authority to operate a cellular system in any remaining unserved area) for that market and channel block may be filed on or after the 121st day after the Phase I application was granted. If no Phase I initial applications are granted for a market and channel block, Phase II applications for that market and channel block may be filed on or after the 31st day after the FCC dismissed the last pending Phase I application. If no Phase I initial applications are received for a market and channel block, Phase II applications for that market and channel block may be filed on or after the 32nd day after the expiration of the relevant five-year build-out period.

(2) There is no limit to the number of Phase II applications that may be granted on each channel block in each market. Consequently, Phase II applications are mutually exclusive only if the proposed CGSAs would overlap. Mutually exclusive applications are processed using the general procedures in § 22.131.

(3) Phase II applications may propose a CGSA covering more than one cellular market. Each Phase II application must request authorization for one and only one CGSA. Phase II applications may propose *de minimis* and contract SAB extensions.

(c) Settlements among some, but not all, applicants with mutually exclusive applications for unserved areas (partial settlements) are prohibited. Settlements among all applicants with mutually exclusive applications (full settlements) are allowed and must be filed no later than the date that the FCC Form 175 (short-form) is filed.

(d) *Limitations on amendments.* Notwithstanding the provisions of § 22.122, Phase I applications are subject to the following additional limitations in regard to the filing of amendments.

(1) The Commission will not accept amendments (of any type) to mutually

exclusive Phase I applications prior to the conclusion of the competitive bidding process.

(2) The FCC will not accept major amendments to Phase I applications.

(3) Minor amendments required by § 1.65 of this chapter must be filed no later than thirty (30) days after public notice announcing the results of the competitive bidding process.

[59 FR 59507, Nov. 17, 1994, as amended at 59 FR 59956, Nov. 21, 1994; 61 FR 58339, Nov. 14, 1996]

§ 22.951 Minimum coverage requirement.

Applications for authority to operate a new cellular system in an unserved area, other than those filed by the licensee of an existing system that abuts the unserved area, must propose a contiguous cellular geographical service area (CGSA) of at least 130 square kilometers (50 square miles). Area within contract SAB extensions counts toward the minimum coverage requirement. However, area within *de minimis* SAB extensions does not count toward the minimum coverage requirement. Applications for authority to operate a new cellular system in an unserved area, other than those filed by the licensee of an existing system that abuts the unserved area, must not propose coverage of water areas only (or water areas and uninhabited islands or reefs only), except for unserved areas in the Gulf of Mexico MSA.

§ 22.953 Content and form of applications.

Applications for authority to operate a cellular system in an unserved area must comply with the specifications in this section.

(a) *New systems.* Forms, pages and exhibits must be prepared exactly as described and assembled in the order listed in this section.

(1) *Application cover.* The paper original of each application must be enclosed in a stiff cover fastened securely along the left edge, without exposed sharp edges.

(2) *Transmittal sheet.* The first page after the front cover of the application must be the transmittal sheet.

(i) Copies of the required transmittal sheet may be obtained by contacting